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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,761	11/06/2001	Peter F. Searle	CACO-0067(P21303US)	9242

7590 12/29/2003  
Robin S Quartin  
Woodcock Washburn Kurtz  
Mackiewicz & Norris  
One Liberty Place - 46th Floor  
Philadelphia, PA 19103

EXAMINER

BYRD, DEVON R

ART UNIT	PAPER NUMBER
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1639

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

11

DATE MAILED:

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Commissioner for Patents

**ELECTION/RESTRICTION : BONAFIDE ATTEMPT LETTER**

The communication filed October 15, 2003 in Paper No. 10 is not fully responsive to the Office communication mailed in paper no. 9 (dated 8/29/03) for the reason(s) set forth herein.

The examiner required an election of a representative species for each of the following generic categories (a)-(e):

- a) a selectable marker (antibiotic resistance or otherwise) in claim 5;
- b) an enzyme capable of converting a prodrug to its active drug form (e.g., nitroreductase, flavin reductase, DT-diaphorase, thymidine kinase, cytosine deaminase, purine nucleoside phosphorylase) in claim 6;
- c) a specific enzyme of the above elected enzyme capable of converting a prodrug to its active drug form (e.g. the protein encoded by the gene *nfnB*, as disclosed on p 15, ln 14 of the specification)
- d) a prodrug (e.g., CB1954, SN 23862, 2-[N,N-bis(2-iodoethyl)amino]-3,5-dinitrobenzamide, 5-fluorocytosine, acyclovir, gancyclovir, 6-methyl-9-(2-deoxy-β-D-erythro-pentofuranosyl) purine) in claim 7;
- e) a single enzyme [from which variants are derived] in claim 9.

Applicant's reply was non-responsive because Applicant merely restated the generic category of "an enzyme capable of converting a prodrug to its active drug form" rather than electing a single representative species of this (or any other) generic category corresponding to items (a)-(e) as recited above.

Applicant is required to elect a single representative species for EACH of the generic categories (a), (b), (c), (d), and (e).

Since the above-mentioned reply appears to be bona fide attempt to comply, applicant is given a TIME PERIOD of ONE (1) MONTH from the mailing date of this communication within which to correct the deficiency. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

**General information regarding further correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Byrd whose telephone number is (703) 305-0159.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Wang (art unit 1639), can be

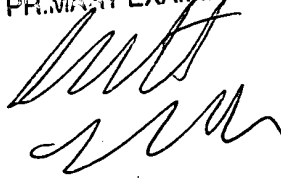
reached at (703)306-3217.

Any inquiry of a general nature, or relating to the status of this application, should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Devon Byrd (art unit 1639)

November 13, 2003

BENNETT CELSA  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Bennett Celsa', written over the printed name and title.